

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

HELEN A. RUNGE,	:	
Plaintiff	:	
	:	No. 05-10849-RGS
v.	:	(Judge Stearns)
	:	
WALTER J. KELLY, et al.	:	CIVIL ACTION
Defendants	:	JURY TRIAL DEMANDED

**PLAINTIFF'S SECOND MOTION TO COMPEL  
DISCOVERY RESPONSES FROM DEFENDANT SUNBRIDGE  
NURSING AND REHABILITATION CENTER**

AND NOW, COMES Plaintiff, Dorothy Stanley, Executrix of the Estate of Helen Runge ("Plaintiff"), by and through her counsel, and motions to compel discovery responses from Defendant Sunbridge Nursing and Rehabilitation Center ("Defendant Sunbridge") and states the following:

1. On or about May 19, 2006, Plaintiff served a Request for Production of Documents on Defendant Sunbridge. (See Exhibit A to Document 88.)
2. On or about October 6, 2006, Defendant Sunbridge submitted a partial response to Plaintiff's Request for Production of Documents, which included only Helen Runge's ("Runge's") medical records, including power of attorney and health care proxy documents, Defendant Kerry L. Bloomingdale's April 29, 2003 medical certificate and the Department of Public Health's report regarding the complaint made to it by Plaintiff regarding Defendant Sunbridge. (See Exhibit B to Document 88.)
3. In response to Plaintiff's request to either submit a privilege log or produce the documents withheld, Defendant Sunbridge submitted a Privilege Log to

Plaintiff on or about November 21, 2006 of those documents it had withheld from its response based on a claim of privilege. (See Exhibit D to Document 88.)

4. On February 27, 2007, Plaintiff filed a Motion to Compel Discovery Responses from Defendant Sunbridge ("Motion to Compel"), arguing that Defendant Sunbridge had failed to produce adequate documentation in response to its Request for Production of Documents.

5. Plaintiff incorporates the original Motion to Compel and attachments to it, Document 88, herein as if set forth at length.

6. Defendant Sunbridge submitted supplemental responses (attached as Exhibit A hereto) to Plaintiff's Request for Production of Documents Numbers 6 and 10 on or about March 8, 2007, which consisted of the following information specific to Runge: (1) Multiple copies of Runge's admission information sheet; (2) billing information for the majority of the time period Runge was in residence at Sunbridge; (3) another copy of the Durable Power of Attorney and of the Health Care Proxy for Runge; (4) general medicare, including assignment of benefits and payment, and social security information; (5) admission agreement and documentation; (6) a preadmission assessment; and (7) a trust fund authorization, receipts, copies of checks and statements regarding Runge's resident account.

7. On March 13, 2007, Defendant Sunbridge filed a response to Plaintiff's Motion to Compel entitled Opposition of Defendant Mediplex of Massachusetts, Inc. d/b/a Sunbridge Care and Rehabilitation for Randolph to Plaintiff's Motion to Compel

Discovery Responses ("Opposition"); the Opposition is docketed as Document 94 and is incorporated herein as if set forth at length.

8. In its Opposition, Defendant Sunbridge stated that it provided Plaintiff with 485 pages as part of its disclosures on July 20, 2006. However, Defendant Sunbridge submitted its disclosures on September 12, 2005; no documents were submitted with the disclosures. Defendant Sunbridge first produced documentation to Plaintiff, 485 pages, on or about October 6, 2006, in response to Plaintiff's Request for Production of Documents.

9. Defendant Sunbridge further stated in its Opposition that the records it has produced represent "significant compliance with Plaintiff's document requests."

10. By Order entered March 20, 2007, this Court denied Plaintiff's original Motion to Compel stating the following: "Denied on defendants' representation that the records have been produced."

11. The records produced by Defendant Sunbridge in no way represent significant compliance with Plaintiff's requests.

12. Defendant Sunbridge failed to represent to this Court that it has failed to produce documents in response to several of the requested categories.

13. The deposition testimony of Sandra Porazzo Perry, Defendant Sunbridge's Director of Nurses for the 2000-2004 time period, establishes the existence of the following documents that have not been produced by Defendant Sunbridge:

- a. All reports, correspondence, etc., that are not part of the normal facility chart (Request for Production of Documents No. 2);

- b. documentation of communication of caregivers regarding Runge (Request for Production of Documents No. 4);
- c. documents provided to Runge's physicians or that memorialize any notification regarding Runge to the physicians (Request for Production of Documents No. 5);
- d. documents relating to any business relationship between Defendant Sunbridge and Defendant Kelly during a specified time period (Request for Production of Documents No. 8);
- e. documents relating to any business relationship between Defendant Sunbridge and Defendant Bloomingdale during a specified time period (Request for Production of Documents No. 9);
- f. documents relating to any payments Defendant Sunbridge made to or received from Defendant Bloomingdale during a specified time period (Request for Production of Documents No. 11);
- g. an employee list for persons who worked at or for Sunbridge on April 29 and 30, 2003 (Request for Production of Documents No. 12) ;
- h. all documentation reflecting any investigations conducted by state or federal agencies concerning Runge (Request for Production of Documents No. 13);
- i. the floor plan of Defendant Sunbridge during Runge's residency (Request for Production of Documents No. 14);

j. the Policy and Procedures Manuals in effect for Defendant Sunbridge during Runge's residency (Request for Production of Documents No. 16);

k. written job descriptions for the Medical Director, Administrator, Director of Nursing and Director of Social Services during Runge's residency (Request for Production of Documents No. 17);

l. guidelines, etc., for evaluating the job performance of specific classes of employees (Request for Production of Documents No. 18);

m. contracts with Defendant Sunbridge's medical director or outside consultant medical doctors (Request for Production of Documents No. 20);

n. daily census reports and/or records with resident acuity information during Runge's residency (Request for Production of Documents No. 22);

o. certain enumerated work information for employees for April 29 and 30, 2006 (Request for Production of Documents No. 23).

The pertinent portions of the deposition transcript which support Defendant Sunbridge's own employee's testimony establishing the existence of these documents are attached hereto as Exhibit B.

14. Defendant Sunbridge has waived any objections to Plaintiff's Request for Production of Documents, as its response in October 2006 was untimely.

15. Plaintiff hereby renews its Motion to Compel filed February 27, 2007. As established by the deposition testimony of Sandra Porazzo-Perry, Defendant Sunbridge

misrepresented that it has complied to a significant extent with Plaintiff's discovery requests.

16. By letter dated April 12, 2007 (attached as Exhibit C hereto), counsel for Defendant Sunbridge admits to now having obtained corporate documents but in perplexing language suggests that there is no representation made to the documents' accuracy and therefore authenticity.

17. Our office immediately called counsel and questioned what usefulness such documents provided since they have no probative value but rather served to cause confusion; we also questioned why useless exemplars could be obtained when originals cannot.

18. Counsel's April 12, 2007, letter is the first explicit disclosure to Plaintiff that they "have not had access to the facility files." To the contrary, counsel consistently represented that Defendant Sunbridge was in the process of obtaining the documents and that they would be forthcoming; earlier disclosure would have allowed Plaintiff to have subpoenaed documents from the facility during the discovery period.

19. Defendant Sunbridge has either purposefully withheld or negligently failed to produce multiple categories of documents responsive to Plaintiff's requests.

20. Plaintiff respectfully requests that this Honorable Court compel Defendant Sunbridge to adequately respond to Plaintiff's Request for Production of Documents.

21. In support of the instant Motion, Plaintiff incorporates her Memorandum of Reasons In Support of Motion to Compel Discovery Responses from Defendant Sunbridge.

WHEREFORE, Plaintiff respectfully requests that this Honorable Court grant Plaintiff's Second Motion to Compel Discovery Responses from Defendant Sunbridge and award Plaintiff appropriate sanctions against Defendant Sunbridge.

Respectfully submitted,

LATSHA DAVIS YOHE & MCKENNA, P.C.

Dated: April 18, 2007

By /s/ Glenn R. Davis

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Attorneys for Plaintiff, Helen A. Runge

#### LOCAL RULE 7.1 CERTIFICATION

I, Glenn R. Davis, counsel for Plaintiff, certify that we have contacted counsel for Defendant Walter J. Kelly, Kerry L. Bloomingdale, M.D. and Sunbridge Nursing and Rehabilitation Center regarding Plaintiff's Second Motion to Compel Discovery Responses from Defendant Sunbridge. Counsel for Defendant Sunbridge does not concur in the filing of this motion. Counsel for Defendants Kelly and Bloomingdale have not provided their positions, whether it be concurrence or nonconcurrence with the presentation of this motion.

### LOCAL RULE 37.1 CERTIFICATION

I, Glenn R. Davis, counsel for Plaintiff, certify that we engaged in discovery conferences with counsel for Defendant Sunbridge Nursing and Rehabilitation Center, the defendant involved in the discovery dispute, in a good faith attempt to narrow the areas of dispute and accordingly have complied with the provisions of Local Rule 37.1.

Dated: April 18, 2007

/s/ Glenn R. Davis

Glenn R. Davis



**CERTIFICATE OF SERVICE**

I hereby certify that a true copy of the foregoing document was served upon the attorney of record for each party by electronic transmission.

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Dated: April 18, 2007

/s/ Glenn R. Davis

Glenn R. Davis

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

HELEN RUNGE,

*Plaintiff,*

v.

WALTER J. KELLEY; KERRY L.  
BLOOMINGDALE, M.D.; and  
SUNBRIDGE NURSING AND  
REHABILITATION CENTER,

*Defendants.*

Civil Action No. 05-10849-RGS

**SUPPLEMENTAL RESPONSES of DEFENDANT MEDIPLEX OF MASSACHUSETTS  
to PLAINTIFF'S REQUEST FOR PRODUCTION OF DOCUMENTS**

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The Defendant, Mediplex of Massachusetts, Inc. d/b/a SunBridge Care and Rehabilitation of Randolph ("Mediplex") hereby responds to the Plaintiff's Request for Production of Documents as follows:

**GENERAL OBJECTIONS**

1. The Defendant objects to the Plaintiff's Requests and Definitions to the extent they seek the disclosure of information or communications subject to the attorney-client privilege, work product doctrine or other privileges and immunities such as information prepared for a medical peer review committee.
2. The Defendant objects to the Plaintiff's Requests to the extent they are unduly burdensome, overly broad, irrelevant and not reasonably calculated to lead to the discovery of admissible evidence.
3. Defendant has exercised reasonable diligence to locate responsive documents by examining those files that may reasonably be expected to yield such documents. Any responses to Plaintiff's requests, are made in a good faith effort to construe and comply

therewith, and are made without prejudice to and without waiving any of Defendant's objections, whether general or specific.

### **RESPONSES**

#### **Request No. 6**

Please produce complete and itemized bills for any and all services, medical supplies, pharmaceutical supplies, therapies, or any other goods or services for which SunBridge charged Plaintiff or any third party payer on behalf of Plaintiff while she was a resident at SunBridge, including, but not limited to:

- (a) All bills or statements submitted to Plaintiff, her power of attorney, guardian, family, or Medicare for room and board, services, supplies, equipment, or other items provided to Plaintiff, including co-payments or deductibles, by SunBridge;
- (b) All revenue reports and/or remittance advisories that reflect reimbursement made by private insurance, Medicare, or any individual for room and board, services, supplies, equipment, or other items provided by SunBridge;
- (c) All statements, lists, or reconciliations of trust accounts reflecting funds received from Plaintiff, her power of attorney, guardian, or family or held in trust for the benefit of Plaintiff.

#### **Response to Request No. 6**

See the attached facility records (03364-03470).

#### **Request No. 10**

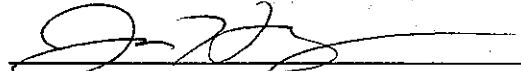
Please produce any and all documents relating to any payments SunBridge made to or received from Kelly during the one year prior to Plaintiff's residency at SunBridge and during or after Plaintiff's residency at SunBridge.

#### **Response to Request No. 10**

See the attached facility records (03364-03470).

Mediplex of Massachusetts, Inc. d/b/a SunBridge  
Nursing and Rehabilitation Center,

by its attorneys,



K. Scott Griggs (BBO# 555988)

Robert J. Roughsedge (BBO# 638180)

Michael Williams (BBO# 634062)

James M. Henry (BBO# 663944)

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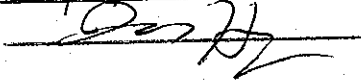
88 Black Falcon Avenue, Suite 345

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I hereby certify that a true copy of the above  
document was served upon (each party  
appearing pro se and) the attorney of record  
for each other party by mail — hand —  
telecopier, on 3/8/07



**ORIGINAL**

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Volume: I

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UNITED STATES DISTRICT COURT

EASTERN DIVISION

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HELEN RUNGE, Civil Action

Plaintiff, No. 05-10849-RGS

WALTER J. KELLY,  
KERRY L. BLOOMINGDALE, M.D, and  
SUNBRIDGE NURSING AND  
REHABILITATION CENTER,

Defendants.

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DEPOSITION OF SANDRA M. PORAZZO-PERRY

Wednesday, March 28, 2007, 10:00 a.m.

Blake J. Godbout & Associates

33 Broad Street - 11th Floor

Boston, Massachusetts 02109

----- Reporter: Toni F. Beckwith, RMR -----

Toni F. Beckwith, Registered Merit Reporter  
50 Winsor Avenue  
Watertown, Massachusetts 02472  
Tel: 617.924.2731  
Fax: 617.924.9899

1 training you had received previously or your  
2 educational experience?

3 A. No.

4 Q. Now, I'd like to focus for the time  
5 being on the period between January 23, 2003 and  
6 April 30, 2003, and I'd like to know, at that  
7 time were there nursing procedures and policies  
8 in place at Sunbridge which guided the nurses  
9 and the care that they rendered and their  
10 obligations, if you understand what I mean?

11 A. Yes. Sunbridge had policy and  
12 procedures manuals.

13 Q. So these were written policies and  
14 procedures manuals?

15 A. Yes.

16 Q. And would that just be for the nursing  
17 staff or were there written policy and  
18 procedures manuals for the therapy staff and the  
19 various departments at Sunbridge?

20 A. They had a set of policies that was  
21 their clinical policies and procedures based on  
22 the Mass. State Regulations. Other than that,  
23 I'm not sure.

24 Q. Now, you said these are written

1 policies. Were they kept in a book or a binder  
2 of some sort or how were they maintained?

3 A. In a binder.

4 Q. And was this binder given to each  
5 employee that worked at Sunbridge?

6 A. No. There was a set available on  
7 every nursing unit, and then in the director's  
8 office and the administrative office.

9 Q. How often were these manuals updated,  
10 if you know?

11 A. I don't know. As policies changed  
12 based on state regulations, updates would come  
13 from the corporate office.

14 Q. For this same period of time, January  
15 23 through April 30, 2003, did you have  
16 admissions procedures and policies that you  
17 followed for new patients?

18 A. Yes, we did.

19 Q. Were these also written policies and  
20 procedures?

21 A. We had an admission packet that went  
22 over everything that needed to be done as far as  
23 an admission, you know, consents and things that  
24 had to be signed, but there wasn't a, per se,

1 policy of you did this, this, this to admit a  
2 patient.

3 Q. So if you would, when a new patient  
4 would come into the facility, would the person  
5 responsible for the admissions, you know, have a  
6 checklist that they would go through and make  
7 sure everything was followed? Is that what you  
8 mean?

9 A. There wasn't really a checklist.  
10 Before anybody got admitted to the facility the  
11 clinical liaison out in the field would go do a  
12 screen of the patient. I, as the director of  
13 nurses, then would read that based on what I  
14 found in that whether or not they would be  
15 appropriate to come to our facility and we can  
16 meet their needs.

17 If that was true, then a bed offer  
18 would be made, and then from the time the  
19 patient came in, the admission person or social  
20 service would then have the appropriate  
21 paperwork signed when the patient came into the  
22 facility.

23 Q. Okay. If I am understanding your  
24 testimony correctly, there could have been some



1 sort of written paperwork that would have  
2 explained to the clinician or whoever was  
3 responsible for doing the admissions paperwork  
4 to detail exactly what paperwork needed to be  
5 signed and to successfully complete the  
6 admission?

7 A. Yes.

8 Q. The employees that were at Sunbridge,  
9 did each employee have an individual employment  
10 file that was maintained by the facility?

11 A. Yes.

12 Q. And does that employment file -- who  
13 maintained those employment files?

14 A. Human resources in the building.

15 Q. And they were kept at the building?

16 A. Yes.

17 Q. And for each employee that was at the  
18 facility, was there a written or a job  
19 description for each position, say, nursing  
20 position, occupational therapist, physical  
21 therapist?

22 A. Yes.

23 Q. And these were written explanations or  
24 written job descriptions for what was expected

1 of each employee, what their job  
2 responsibilities might have been?

3 A. Yes.

4 Q. For this period of January 2003  
5 through May of 2003 or April 30 of 2003, do you  
6 remember who the administrator at Sunbridge was?

7 A. No, I don't, because I had too many of  
8 them.

9 Q. In your time at Sunbridge, how many  
10 administrators would you estimate that you had  
11 during your tenure there?

12 A. 18.

13 Q. And do you remember if there was a  
14 change in administrator during the period  
15 between January 23, 2003 and April 30 of 2003?

16 A. I don't remember.

17 Q. Now, when you had residents at the  
18 facility, did certain of your residents there  
19 operate under powers of attorney and healthcare  
20 proxies?

21 A. Yes.

22 Q. Could you take me through the  
23 procedures and policies by which you determined  
24 whether a healthcare proxy or a power of

1 attorney would be used for a patient?

2 A. If a patient came to us and from their  
3 documentation from the hospital or if they had  
4 been in our facility and through their physician  
5 deemed that they were unable, due to a diagnosis  
6 of dementia or whatnot, to make their healthcare  
7 decisions, then we would activate their  
8 healthcare proxy.

9 Q. Who was responsible for making the  
10 decision as to whether the healthcare proxy  
11 would be activated or not?

12 A. The physician.

13 Q. Would that have to be a written  
14 decision that was made specifically authorizing  
15 the healthcare proxy?

16 A. Yes.

17 Q. And would that written decision  
18 authorizing the healthcare proxy to take action  
19 on behalf of the patient be maintained in the  
20 patient's file at the facility?

21 A. Yes.

22 Q. I believe you had said you would check  
23 through their prior medical history and see if  
24 there was a diagnosis. Are there specific

1 regulations which limit the ability of a  
2 healthcare proxy to operate on behalf of the  
3 patient?

4 MR. WILLIAMS: Objection. Go ahead.

5 A. I guess it limits the ability when you  
6 get into use of antipsychotic medications.

7 Q. And what is your understanding of the  
8 limitations on when you're using antipsychotic  
9 medications?

10 A. The healthcare proxy -- the healthcare  
11 proxy can make the consent, the informed consent  
12 for the use of the antipsychotic medication for  
13 that patient as long as that patient is  
14 voluntarily taking that antipsychotic  
15 medication.

16 If that patient refuses that  
17 antipsychotic medication for any reason, then  
18 that basically null and voids the healthcare  
19 proxy and you need to go to court for a Rogers  
20 guardianship.

21 Q. And, again, for the healthcare proxy  
22 to be making the informed consent decisions,  
23 would there first have to have been some sort of  
24 a diagnosis or I believe, as you said before, a

1 written order from the physician that the  
2 healthcare proxy would be activated?

3 MR. WILLIAMS: Objection.

4 A. Yes.

5 Q. I would state this by way of  
6 background: do you remember Helen Runge was  
7 operating under a power of attorney and a  
8 healthcare proxy while she was a patient at  
9 Sunbridge?

10 A. I think so.

11 Q. Do you remember the healthcare proxy  
12 and the power of attorney, the identity of the  
13 healthcare proxy and/or the power of attorney?

14 A. Well, I don't -- actually, I don't  
15 think it was a healthcare proxy. It was a  
16 guardianship that had been filed on her behalf  
17 because when she came in, she didn't have a  
18 healthcare proxy.

19 Q. And I probably should have asked this  
20 in the beginning. And if you'll excuse me, I'll  
21 go back. In your preparation for your  
22 deposition today, did you review any  
23 documentation or otherwise to help refresh your  
24 recollection of the facts and circumstances

1 Sunbridge and New England Geriatrics was?

2 A. New England Geriatrics was one of the  
3 psych service providers at the time that we used  
4 in Randolph to meet the needs of the clients we  
5 had in the facility.

6 Q. Now, the relationship between  
7 Sunbridge and New England Geriatrics, do you  
8 know if there was any written contract between  
9 the two facilities, to your knowledge?

10 A. To my knowledge, there was a contract  
11 between Randolph and New England Geriatrics.

12 Q. And what was the procedure to  
13 establish -- you said it was for psych consults.  
14 How would New England Geriatrics be alerted that  
15 someone from their facility was needed at  
16 Sunbridge?

17 A. We would call them if we had somebody  
18 that came into the facility new that had a  
19 psychiatric diagnosis and/or any psychiatric  
20 medication that needed to be reviewed. If we  
21 had anybody that was having some behavioral  
22 issues, we would call them and notify them.

23 Q. Were the doctors or physicians that  
24 would be from New England Geriatrics, would they

1 have on-call schedules to appear at Sunbridge or  
2 would you use a different facility for on-call  
3 or emergency services?

4 A. We would call them first if we had  
5 somebody who was truly behavioral and acting  
6 out. They would then, if they could, come into  
7 the facility and help us try to manage the  
8 patient and/or facilitate a hospitalization if  
9 needed.

10 Q. And do you know, to your recollection,  
11 how many physicians from New England Geriatrics  
12 were there that would come to Sunbridge?

13 A. We had just the one physician, and  
14 then there was clinicians, the psychotherapist  
15 that would come in weekly to meet with residents  
16 that had orders for one-to-one weekly  
17 psychotherapy.

18 Q. Do you remember the name of the  
19 physician that was assigned to your facility  
20 from New England Geriatrics?

21 A. Dr. Bloomingdale.

22 Q. Did Dr. Bloomingdale have a set  
23 schedule that he would come to Sunbridge on  
24 certain days, or was it only when you would

1 contact them to alert them that services were  
2 needed?

3 A. I don't remember that he had a set  
4 schedule. I know he was there quite a bit  
5 because of the population we had on another unit  
6 in that building.

7 Q. When Dr. Bloomingdale would arrive to  
8 your building, how would he know which patients  
9 to see or who he was designated to see or what  
10 appointments he had for the day?

11 A. He would meet with social service.

12 Q. And was there any sort of written  
13 patient list or appointment list that would be  
14 provided to Dr. Bloomingdale when he would come  
15 which would sort of set forth his schedule for  
16 the day or who needed to be seen?

17 A. Social service would usually just have  
18 a list. I don't know if they kept it in a book  
19 or just on a piece of paper for that week of who  
20 needed to be seen.

21 Q. Now, if I inquired whether that book  
22 might have been a spiral notebook, would that  
23 refresh your recollection as to whether there  
24 was a book or pad kept with regard to that?



1 A. I don't know, because I didn't do it.

2 Q. Okay. As far as Dr. Bloomingdale is  
3 concerned, was there any direct relationship  
4 between Sunbridge and Dr. Bloomingdale, or was  
5 that relationship maintained solely through his  
6 employment with New England Geriatrics?

7 MS. OH: Objection.

8 A. To the best of my knowledge, it was  
9 just solely through the employment.

10 Q. Do you have any recollection as to who  
11 at Sunbridge would have requested  
12 Dr. Bloomingdale to provide services to Helen  
13 Runge?

14 A. It would probably have been either me  
15 or the social worker.

16 Q. Do you have an understanding of who  
17 the individual named Walter Kelly is?

18 A. Yes.

19 Q. Could you please explain to me your  
20 understanding of Walter Kelly's relationship  
21 with Sunbridge?

22 A. He was an attorney that would help  
23 when we needed to file for guardianships.

24 Q. How many guardianships do you recall

1 Attorney Kelly assisting you in filing?

2 A. I don't know.

3 Q. Would Attorney Kelly's relationship --  
4 strike that question.

5 So it's your understanding that Walter  
6 Kelly was involved with Sunbridge in filing  
7 guardianship petitions on behalf of patients?

8 MS. CARLUCCI: Objection.

9 A. He was one of the attorneys.

10 Q. Do you happen to know who the other  
11 attorneys were?

12 A. I don't.

13 Q. As to your understanding, would  
14 Sunbridge contact Attorney Kelly for the  
15 assistance in filing these guardianship  
16 petitions?

17 MS. CARLUCCI: Objection.

18 A. Yes.

19 Q. And to your recollection, this  
20 happened on more than one occasion?

21 A. Yes.

22 Q. And is it your understanding that this  
23 was done at Sunbridge's request, or was this  
24 done for patients of Sunbridge who were

1 Mr. Kelly's clients?

2 A. This was done at Sunbridge's request  
3 for a patient who had an antipsychotic and  
4 couldn't make the decision to take those  
5 antipsychotics.

6 Q. So when that decision was made, would  
7 you then contact Attorney Kelly for assistance  
8 in preparing the guardianship petition and the  
9 legal paperwork necessary to establish the  
10 guardianship?

11 A. Yes.

12 Q. If you can recall, on how many  
13 occasions did Attorney Kelly provide these  
14 services to Sunbridge with regard to  
15 establishing guardianship?

16 MS. CARLUCCI: Objection.

17 A. I don't know. I mean, we worked with  
18 a couple of different attorneys, and we had a  
19 unique situation. We had a behavioral  
20 population on one of our units, so most of those  
21 patients had guardians.

22 Q. If you can, your best estimation as to  
23 how many attorneys you would use, how many  
24 different attorneys you would use to provide

1 legal services for you in this regard?

2 A. I think there were two or three.

3 Q. Was this relationship with  
4 Attorney Kelly, if you can remember, was that  
5 used during your entire tenure at Sunbridge from  
6 the time you came in 2000 until when you left,  
7 or was that something that started sometime  
8 during your tenure at Sunbridge?

9 MS. CARLUCCI: Objection.

10 A. I don't know.

11 Q. With regard to these services that  
12 Attorney Kelly would provide, do you know if the  
13 facility would bill Mr. Kelly for the services,  
14 the legal services, or would Mr. Kelly bill the  
15 facility for the legal services that he would  
16 provide?

17 MS. CARLUCCI: Objection.

18 Q. Or would he bill the individual  
19 patients?

20 MS. CARLUCCI: Objection.

21 A. I don't know.

22 Q. Who was, to your understanding, who  
23 would have been responsible at Sunbridge for  
24 contacting one of the attorneys to establish the

1 facility, there was no prohibition for a patient  
2 on 3-East leaving the facility as long as the  
3 physician approved it?

4 A. Correct.

5 Q. Was Mrs. Runge assigned a primary  
6 caregiver while she was at the facility, if you  
7 understand the term "primary caregiver"?

8 A. A nurse or a CNA or a physician?

9 Q. Who were the individuals who would  
10 have provided care to Helen while she was a  
11 patient at the facility?

12 A. There would have been the nurse on the  
13 floor and whoever the CNAs were. They had  
14 assignments every day.

15 Q. And as far as a medical doctor, would  
16 she be assigned a specific medical doctor or  
17 would it depend on the staff doctor?

18 A. She would have been assigned a  
19 physician upon admission to the facility.

20 Q. Now, out of the individuals who were  
21 assigned to provide Helen care and/or treatment,  
22 were any of them sort of given the role as her  
23 primary caregiver?

24 A. We had the same nurses working the

1 floor regularly, and we had the same CNAs  
2 working the floor regularly. Their assignments  
3 changed, you know, from week to week on who they  
4 had on their assignments.

5 Q. Do you recall the names of the RNs or  
6 the CNAs who would have been assigned to Helen  
7 on the day shift during this time period?

8 A. I remember who the unit manager was on  
9 the floor at that time.

10 Q. Who was that?

11 A. Cathleen Couch.

12 Q. And at that time, do you know how many  
13 RNs you had on staff at that time at the  
14 facility?

15 A. I don't know specifically how many  
16 were RNs. There were LPNs.

17 Q. Do you know how many total LPNs and  
18 RNs there were underneath you as the director of  
19 nurses?

20 A. Probably 40 licensed nurses.

21 Q. How many shifts were there for the  
22 nursing staff?

23 A. Three.

24 Q. And out of the 40 licensed nurses, how

1 when the daughter and son-in-law showed up  
2 wanting to take her. I know I called him to ask  
3 about allowing this because he was going to be  
4 the guardian for her.

5 Q. Okay. Had you contacted  
6 Attorney Kelly with regard to Helen Runge at any  
7 point prior to that, to the best of your  
8 knowledge?

9 A. I don't remember.

10 Q. What is your understanding of why  
11 Attorney Kelly was going to be the petitioner  
12 for a guardianship for Mrs. Runge?

13 A. She was confused. She wasn't able to  
14 make decisions. She was on an antipsychotic  
15 medication, and she wasn't able to give that  
16 consent for that medication.

17 Q. Did you interact with anyone else on  
18 behalf of Helen Runge or with regard to Helen  
19 Runge, that you can recall?

20 A. Yes.

21 Q. Could you please tell me who you  
22 interacted with and your best recollection of  
23 those interactions?

24 A. I spoke with the attorney for

1 Sunbridge at the time down in New Mexico.

2 Q. Do you remember his name?

3 A. It was Gloria Gelnick.

4 Q. G E L N I C K?

5 A. Yes.

6 Q. Do you remember speaking with anyone  
7 else with regard to Helen Runge?

8 A. I'm sure I spoke with her doctor.

9 Q. But other than staff members at  
10 Sunbridge, do you recollect speaking with any  
11 third parties or otherwise with regard to Helen  
12 Runge during her stay or after?

13 A. No.

14 MR. CONTE: I'd like to take a short  
15 break. If you guys need a water, maybe like  
16 five or ten minutes.

17 (Recess taken)

18 BY MR. CONTE:

19 Q. Just a couple of things. I wanted to  
20 go back for a second. I know you had stayed at  
21 Sunbridge through 2004. Where are you currently  
22 employed?

23 A. I work for Kindred Healthcare.

24 Q. And you also said you do real estate



1 sales part time?

2 A. For my husband's company.

3 Q. So is your position with Kindred  
4 Healthcare full time or part-time?

5 A. Full-time.

6 Q. I know you had testified earlier with  
7 regard to Mr. Kelly and the services he provided  
8 to Sunbridge. About how many patients did you  
9 have at Sunbridge?

10 A. It's a 168-bed facility. Our census  
11 ran probably around 160 at any given time.

12 Q. And on average, how many guardianships  
13 would you have to initiate on behalf of the  
14 patients at the facility?

15 A. To actually initiate, there was  
16 probably, you know, like, one a month that we  
17 would have to initiate. We had a lot of people  
18 with guardianships in the facility.

19 Q. You said you used Attorney Kelly and  
20 another attorney to initiate those?

21 A. Mm-hmm.

22 Q. Do you remember who the other  
23 attorney's name was?

24 A. I don't.

1 Q. Okay.

2 A. A description of the vehicle,  
3 probably.

4 Q. Do you know if anyone else from  
5 Sunbridge participated in the subsequent  
6 investigation?

7 A. I don't.

8 Q. Do you know if anyone gave any  
9 statements to either the police or the  
10 Department of Public Health?

11 A. I know Al Wilkins did, and I don't  
12 remember if the Department of Public Health came  
13 out to investigate. They would have talked to  
14 everybody. But without looking in the file, I  
15 don't know if they came out to investigate.

16 Q. Okay. Do you know if the facility did  
17 any subsequent investigation with regard to  
18 Mrs. Runge after she was taken out of the  
19 facility on April 30?

20 A. I don't know what you mean by  
21 "investigation."

22 Q. Did you investigate Mrs. Runge's  
23 whereabouts after she left the facility?

24 A. I spoke with Attorney Kelly to try to

1           A. It would make sense.

2           Q. Why do you say "it would make sense"?

3           A. We used to get a lot of admissions  
4 from Carney Hospital.

5           Q. Did you have any knowledge of either  
6 Gilbert or Dorothy Stanley ever contacting Helen  
7 Runge or anyone at Sunbridge prior to their  
8 arrival the day before they removed her from the  
9 facility?

10          A. No.

11          Q. Were you present at Sunbridge when  
12 Gilbert and Dorothy Stanley first arrived?

13          A. I don't remember.

14          Q. Do visitors have to check in anywhere?

15          A. At the reception desk there's a  
16 sign-in for visitors.

17          Q. Do you know one way or another whether  
18 they spoke to anyone at the facility before  
19 visiting with Helen Runge other than to just  
20 check in?

21          A. To the best of my knowledge, they  
22 hadn't spoken to anybody. They just arrived one  
23 day and said who they were.

24          Q. Do you know what they did that day

1 BY MS. OH:

2 Q. Just backing up, again my name is  
3 Heidi Oh, and I represent Dr. Bloomingdale in  
4 this matter. You were just asked a series of  
5 questions about some of the threats and  
6 activities of Mr. and Mrs. Stanley following  
7 their arrival on April 29.

8 Did you communicate with  
9 Dr. Bloomingdale about any of those interactions  
10 with the Stanleys?

11 A. No.

12 Q. I think you testified that  
13 Dr. Bloomingdale was at the facility fairly  
14 frequently; is that right?

15 A. Yes.

16 Q. And that was in relation to all of the  
17 patients at the facility, not Mrs. Runge?

18 A. Correct.

19 Q. And if Dr. Bloomingdale had seen  
20 Mrs. Runge on an occasion prior to April 29,  
21 would that surprise you? Let me ask you this.  
22 Do you recall Dr. Bloomingdale seeing Mrs. Runge  
23 before April 29?

24 A. I don't recall, but I didn't typically

1 draft resident assessment protocols?

2 A. We had assessments that we did on  
3 every patient upon admission.

4 Q. And would they --

5 A. They were standard assessments.

6 Q. Would these be separate documents or  
7 would they be included in the patient's files?  
8 How would they be maintained?

9 A. In the patient record.

10 Q. The employees and the various nurses  
11 that you had under your care as director of  
12 nursing, do you know if Sunbridge kept employee  
13 lists for the days, for each individual day who  
14 would have been working, et cetera?

15 A. We had daily schedules of who was  
16 working on what unit and what times.

17 Q. Would these be written schedules that  
18 would be available to the various staff members?

19 A. It was handwritten, and it was posted  
20 on the units every day.

21 Q. I believe you had testified earlier  
22 that your office was right inside the entrance  
23 to the facility?

24 A. Yes.

1 Q. And that was one of the reasons why  
2 the Stanleys had stopped in there. Did  
3 Sunbridge keep a floor plan of the layout of the  
4 facility?

5 A. Yes.

6 Q. That would show the relationship  
7 between your office and the entrance and where  
8 the patients' rooms were?

9 A. In the front lobby -- I mean, it's a  
10 state-mandated posting -- it shows a layout of  
11 the building so that if there's a fire, where  
12 people go to exit.

13 Q. Do you know if Sunbridge owned the  
14 building that the facility was housed in?

15 A. No. They didn't own it.

16 Q. Do you know whether they leased the  
17 space, or do you have an understanding of the  
18 relationship between Sunbridge and the owners of  
19 the building?

20 A. It was a leased space.

21 Q. I believe you had testified earlier  
22 that your average daily census was around 160  
23 patients or so?

24 A. Yes.

1 Q. Did you keep written daily census logs  
2 for each day that would show how many patients  
3 and which beds were filled?

4 A. Yes.

5 Q. During Ms. Carlucci's testimony, you  
6 described a sign-in sheet for visitors?

7 MS. CARLUCCI: Objection. My  
8 testimony?

9 Q. During Ms. Carlucci's questioning I  
10 believe she asked you about the Stanleys  
11 arrival, and you had said there was a sign-in  
12 sheet for visitors?

13 A. Visitors' logbook kept at the front  
14 reception window.

15 Q. Who maintained the logbook?

16 A. The receptionist.

17 Q. And it was maintained at the reception  
18 station?

19 A. Yes.

20 Q. Do you know if the logbooks were kept  
21 after they were filled?

22 A. I don't know that.

23 Q. Did you have employee sign-in sheets,  
24 or I believe you said you had handwritten weekly

1 work schedules for all the employees. Did that  
2 include management employees as well or was it  
3 just for the general staff?

4 A. There was a master schedule as far as  
5 the nursing department went, and it included  
6 nursing management.

7 Q. For the visitor sign-in sheet, would  
8 everyone who came into the facility have to sign  
9 in even if the facility knew who they were, if  
10 they weren't associated with the facility?

11 A. They were supposed to. Not everybody  
12 did. I mean, if there was no receptionist at  
13 the window for whatever reason, people would  
14 walk in.

15 MR. CONTE: I have no further  
16 questions. Thank you very much.

17 THE WITNESS: Thank you.

18 MR. WILLIAMS: We'd like 30 days to  
19 read and sign to give her a chance to read and  
20 correct it and I assume waiving notary.

21 MR. CONTE: Yes. We'll waive the  
22 notary.

23 (The deposition was concluded at 12:56 p.m.)  
24



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April 12, 2007

### VIA ELECTRONIC MAIL and FACSIMILE (717) 620-2444

Glenn R. Davis, Esq.  
Andrea Dean, Esq.  
Latsha Davis Yohe and McKenna, P.C.  
1700 Bent Creek Blvd., Suite 140  
Mechanicsburg, PA 17050

Re: *Runge v. Kelley, et al.*, 05-cv-10849-RGS

Dear Attorneys Davis and Dean:

This letter concerns our continuing in our efforts to obtain documents relevant to this matter. The facility's current operators have not provided us with any additional documents beyond those we have already disclosed. Given the fact that we have not been able to obtain a complete record from the facility's current operators, we have made efforts to find alternative sources. With regard to the job descriptions and policy and procedure manuals, we have managed to locate documents that **are not the documents from the facility**, but that should be similar to or the same as the job descriptions and manuals in effect at the facility during Helen Runge's stay. The versions of the job descriptions and manuals we have obtained are the "master version" or template that was prepared by the parent corporation. The job descriptions used by the facility would have been based on these documents.

I want to be absolutely clear on this issue. **We do not make any representations about these documents being accurate reflections of the manuals and job descriptions that were "for the facility in effect during [Runge's] residency."** The only representation we make is that the facility would have had job descriptions and manuals that were similar to or identical to these documents. But, since we have not had access to the facility files, we do not know if the

\* ALSO ADMITTED IN NY  
\*\* ALSO ADMITTED IN NH  
\*\*\* ALSO ADMITTED IN CA  
+ ALSO ADMITTED IN DC  
++ ALSO ADMITTED IN NJ & PA  
+++ ALSO ADMITTED IN RI, CT, NH & ME  
† ALSO ADMITTED IN NH & NY

**LAWSON & WEITZEN, LLP**

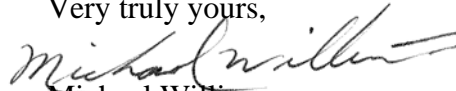
**Glenn R. Davis**  
**April 12, 2007**  
**Page 2**

actual job descriptions and manuals at the facility during Runge's stay were different versions or altered from these templates provided by the parent corporation.

These documents are in the process of being bates numbered and will be produced once that process is complete.

I intend to call your office at 3:30 P.M. to discuss your latest request for a 37.1 conference. If you have any concerns about the limitations on our representation about the authentication of these documents, we should discuss those concerns at that time as well.

Very truly yours,



Michael Williams

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

HELEN A. RUNGE,	:	
Plaintiff	:	
	:	No. 05-10849-RGS
v.	:	(Judge Stearns)
	:	
WALTER J. KELLY, et al.	:	CIVIL ACTION
Defendants	:	JURY TRIAL DEMANDED

ORDER

AND NOW, this \_\_\_\_\_ day of \_\_\_\_\_, 2007,  
upon consideration of Plaintiff's Second Motion to Compel Discovery Responses From  
Defendant Sunbridge Nursing and Rehabilitation Center, it is hereby ORDERED and  
DECREED that said Motion is GRANTED.

BY THE COURT:

\_\_\_\_\_  
Richard C. Stearns, J.